

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

EVERICK MONK,

Plaintiff,

v.

OFFICER MASSEY, *ET AL.*,

Defendants.

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CIVIL ACTION NO. 5:22-CV-98-RWS

ORDER

Plaintiff Everick Monk, an inmate currently confined in the Texas Department of Criminal Justice – Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged deprivations of his constitutional rights during his confinement in the Bowie County Correctional Center. The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636.

On November 27, 2024, the Magistrate Judge issued a Report and Recommendation, recommending that Plaintiff's *in forma pauperis* status be revoked and that the above-styled civil rights lawsuit be dismissed with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit upon payment of the full \$402.00 filing fee or proof of imminent danger related to the allegations of the complaint at the time of filing the lawsuit. Docket No. 74. The Magistrate Judge further recommended that should Plaintiff pay the full filing fee within 15 days after the date of entry of dismissal, he be allowed to proceed in this lawsuit as though the full fee had been paid from the outset. *Id.*

Plaintiff received a copy of this Report on December 4, 2024, but filed no objections. *See* Docket No. 75. Because no objections have been received, Plaintiff is barred from *de novo* review

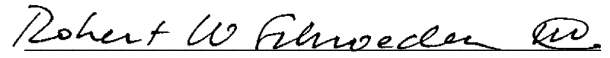
by the District Judge of the Magistrate Judge's proposed findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in the above-captioned case and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 74) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that Plaintiff's *in forma pauperis* status is revoked and the above-styled civil rights lawsuit is **DISMISSED WITH PREJUDICE** as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but **WITHOUT PREJUDICE** to the refiling of this lawsuit upon payment of the full \$402.00 filing fee or proof of imminent danger related to the allegations of the complaint at the time of filing the lawsuit. Should Plaintiff pay the full filing fee within 15 days after the date of entry of dismissal, he is allowed to proceed in this lawsuit as though the full fee had been paid from the outset.

So ORDERED and SIGNED this 2nd day of January, 2025.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE